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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/799,861	03/12/2004	Vijay Deshmukh	67272-8061.US01	1723
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Perkins Coie LLP P.O. Box 1208 Seattle, WA 98111-1208			EXAMINER LOVEL, KIMBERLY M	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/799,861	Applicant(s) DESHMUKH ET AL.	
	Examiner KIMBERLY LOVEL	Art Unit 2167	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 July 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 10, 14 and 31-36 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 10, 14 and 31-36 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>20080827</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This communication is in response to the Amendment filed 21 July 2008.
2. Claims 10, 14 and 31-36 are pending in the current application. Claims 1-9, 11-13 and 15-30 have been canceled. In the Amendment filed 21 July 2008, claims 10 and 34 are amended. This action is made Final.
3. The rejections of claims 10, 14 and 31-36 as being unpatentable over US Patent No 7,096,315 to Takeda et al (hereafter Takeda) in view of US PGPub 2002/0120672 to Butt et al in view of US Patent No 7,139,811 to Lev Ran et al have been withdrawn.

Information Disclosure Statement

4. The information disclosure statement (IDS) submitted on 27 August 2008 was filed after the mailing date of the Non-Final Office Action. The submission is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. **Claims 10, 14 and 31-36 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent No 6,571,257 to Duggan et al (hereafter Duggan) in view of US Patent No 6,553,377 to Eschelbeck et al (hereafter Eschelbeck) in view of US Patent No 7,089,313 to Lee et al (hereafter Lee).**

Referring to claim 10, Duggan discloses an apparatus comprising:

a storage server, coupled to the network, having a mass storage device (see Fig 1);

a multi-appliance management application (MMA) [storage management application 120] coupled to the network to manage the storage server (see Fig 1); and

an agent device [data collection agent] coupled to the storage server and the MMA via the network, the agent to scan a file and directory structure [file system] of a storage server [data collection] to collect information about files maintained by the storage server (see column 3, lines 54-60) and to combine information collected into a summary of a directory under which the files is located, the summary being accessible to the MMA (see column 4, lines 13-18), wherein the agent device, MMA, and the storage server are separate devices (see Fig 1).

Duggan fails to explicitly disclose wherein the agent is separate. Eschelbeck teaches the agent being separate (fig. 2).

It would have been obvious to a person having ordinary skill in the art at the time the invention was made to have modified Duggan to include an independent agent. One would have been motivated to do so in order to increase the efficiency of managing the storage resources (Eschelbeck, col. 2, lines 58-67).

The combination of Duggan and Eschelbeck (hereafter Duggan/Eschelbeck) fails to explicitly disclose the further limitation wherein the agent device uses a file system different from any file system that the storage server uses. Lee discloses a protocol independent system (see abstract), including the further limitation wherein the agent device uses a file system different from any file system that the storage server uses (see column 2, lines 9-21).

It would have been obvious to one of ordinary skill in the art at the time of the invention to utilize the independent protocol feature of Lee with the process disclosed by Duggan/Eschelbeck. One would have been motivated to do so in order to increase the efficiency of the collection process by allowing devices with different protocols to communicate with one another.

Referring to claim 14, the combination of Dugan/Eschelbeck and Lee (hereafter Dugan/Eschelbeck/Lee) discloses the apparatus of claim 10, further comprising a graphical user interface (GUI) coupled to the MMA (Eschelbeck: see column 5, lines 9-21).

Referring to claim 31, Dugan/Eschelbeck/Lee discloses the apparatus of claim 14, further comprising a database [item 150] coupled to the MMA, the database to store the summary (Takeda: see Fig 2).

Referring to claim 32, Dugan/Eschelbeck/Lee discloses the apparatus of claim 31, wherein the summary can be retrieved via the GUI (Eschelbeck: see column 5, lines 9-21)

Referring to claim 33, while Duggan/Eschelbeck/Lee discloses the apparatus of claim 10, wherein the agent device uses a protocol [TCP/IP] (Eschelbeck: see column 5, lines 9-21), Duggan/Eschelbeck/Lee fails to explicitly disclose the further limitation wherein the file system [protocol] is a Common Internet File System (CIFS) or a Network File System (NFS).

It would have been obvious to one of ordinary skill in the art at the time of the invention to replace the protocol of Duggan/Eschelbeck/Lee with the CIFS protocol. One would have been motivated to do so since CIFS is a standard protocol that allows programs to make requests for files and services on remote computers on the Internet.

Referring to claim 34, Duggan discloses a method comprising:
causing an agent device [data collection agent] to scan a file and directory structure [file system] of a storage server [data collection] to collect information about files maintained by the storage server (see column 3, lines 54-60);

combining, by the agent device, information collected into a summary of a directory under which the files are stored [aggregating storage information across

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multiple managed hosts 105 and presenting results to the system manager] (see column 4, lines 14-18); and

sending the summary from the agent device to a multi-appliance management application (MMA) (see column 4, lines 13-14), wherein the agent device, MMA, and the storage server are separate devices (see Fig 1).

Duggan fails to explicitly disclose wherein the agent is separate. Eschelbeck teaches the agent being separate (fig. 2).

It would have been obvious to a person having ordinary skill in the art at the time the invention was made to have modified Duggan to include an independent agent. One would have been motivated to do so in order to increase the efficiency of managing the storage resources (Eschelbeck, col. 2, lines 58-67).

The combination of Duggan and Eschelbeck (hereafter Duggan/Eschelbeck) fails to explicitly disclose the further limitation wherein the agent device uses a file system different from any file system that the storage server uses. Lee discloses a protocol independent system (see abstract), including the further limitation wherein the agent device uses a file system different from any file system that the storage server uses (see column 2, lines 9-21).

It would have been obvious to one of ordinary skill in the art at the time of the invention to utilize the independent protocol feature of Lee with the process disclosed by Duggan/Eschelbeck. One would have been motivated to do so in order to increase the efficiency of the collection process by allowing devices with different protocols to communicate with one another.

Referring to claim 35, Duggan/Eschelbeck/Lee discloses the method of claim 34, wherein the MMA sends the summary to a database server (Duggan: see column 4, lines 9-18), which stores the summary as a table [table] or histogram (Duggan: see Fig 2 and associated text).

Referring to claim 36, while Duggan/Eschelbeck/Lee discloses the method of claim 34, wherein the agent device uses a protocol [TCP/IP] (Eschelbeck: see column 5, lines 9-21), Duggan/Eschelbeck/Lee fails to explicitly disclose the further limitation wherein the file system [protocol] is a Common Internet File System (CIFS) or a Network File System (NFS).

It would have been obvious to one of ordinary skill in the art at the time of the invention to replace the protocol of Duggan/Eschelbeck/Lee with the CIFS protocol. One would have been motivated to do so since CIFS is a standard protocol that allows programs to make requests for files and services on remote computers on the Internet.

Response to Arguments

7. Applicant's arguments with respect to claims 10, 14 and 31-36 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Contact Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to KIMBERLY LOVEL whose telephone number is (571)272-2750. The examiner can normally be reached on 8:00 - 4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Cottingham can be reached on (571) 272-7079. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Luke S. Wassum/
Primary Examiner
Art Unit 2167

/Kimberly Lovel/
Examiner
Art Unit 2167

13 October 2008
kml